



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV 01 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

The Honorable Steve Cohen
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Cohen:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how EPA is monitoring compliance and implementation of the CCR rule.

On April 17, 2015, EPA published a final rule that established comprehensive requirements for the disposal of CCR in surface impoundments and landfills. While some of these regulations were challenged in court¹, the majority went into effect and are currently being implemented. These regulations address the risks from coal ash disposal -- releases of contaminants into groundwater, into the air as dust, and the structural failure of coal ash surface impoundments. The rule also contains requirements for identifying and responding to releases of constituents to the environment, including groundwater monitoring and corrective action, and procedures governing the closure of CCR units. Additionally, the rule sets out recordkeeping and reporting requirements and requires each facility to establish and post specific information to a publicly accessible website. These posting requirements created important transparency regarding compliance with, and implementation of, the CCR regulatory requirements.

Under the regulations, CCR surface impoundments found to have exceedances of regulatory levels must undergo assessment of corrective measures to determine the extent of the contamination, what steps are necessary to limit further contamination, and an analysis of the effectiveness of potential corrective measures. Two of the most important website-posting requirements are the groundwater monitoring notifications and the annual groundwater monitoring and corrective action reports. EPA and our state partners are closely observing facilities' groundwater monitoring data and corrective action postings, tracking how facilities are progressing through the groundwater monitoring process, i.e., from detection monitoring to assessment monitoring to assessment of corrective measures.

In addition, EPA has observed that some publicly accessible websites were missing key documents required under the public posting regulations. In response, in May 2019, EPA mailed compliance

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assistance letters to every facility covered by the CCR rule (except facilities located in Oklahoma, which has an approved CCR program). These letters requested that facilities verify that their publicly accessible websites contain the information required by the regulations, and, if not, that they would update their websites. Enclosed with each letter was a summary of the actions that facilities must take and document on their websites to comply with the CCR regulations.² Since sending these letters, EPA has observed many facilities updating their websites to come into compliance. In addition, our headquarters offices are working with EPA regional offices to determine appropriate strategies to assess compliance with other elements of the CCR rule. Finally, EPA is coordinating with our state partners on additional compliance assistance and enforcement efforts.

Following up on your questions related to additional CCR rulemakings, EPA is aggressively working to update the coal ash regulations in response to the D.C. Circuit Court decisions³ and to respond to the Water Infrastructure Improvements for the Nation (WIIN) Act, which, among other matters, provided EPA with the ability to directly enforce the CCR regulations. This effort included the March 2018 proposal of several provisions designed to address current implementation issues.⁴ Some additional proposed revisions are intended to address other implementation issues EPA has identified as owners and operators continue to take actions required under the rule. To this end, EPA is actively developing three proposed rule packages, which are described in more detail below.

The first proposed rule, *Enhancing Public Access to Information and Reconsideration of Beneficial Use Criteria and Piles*, was signed by the EPA Administrator on July 29, 2019, and published in the Federal Register on August 14, 2019. This proposal addresses provisions remanded by the court in the August 2018 USWAG decision, specifically, the beneficial use provision and definition of piles. Additionally, this proposal would improve public access to the postings on the CCR compliance websites and would standardize the formatting of annual groundwater monitoring reports so that these reports present data in a clear and consistent manner. EPA held an in-person public hearing on October 2, 2019, as well as a virtual public hearing on October 10, 2019, on this proposal.

The second proposed rulemaking package, *A Holistic Approach to Closure Parts A and B*, addresses the remainder of the issues from the court decisions. Part A addresses the remanded deadline for CCR surface impoundments to initiate closure from the Waterkeeper decision in March 2019. Additionally, proposed amendments in Part A would implement the vacatur of parts of the 2015 rule that define “clay-lined” as a type of liner for a CCR surface impoundment and that allow unlined impoundments to continue to operate unless groundwater releases exceed the groundwater protection standard. In Part B, EPA seeks comment on how to regulate inactive surface impoundments at inactive power plants, in response to the USWAG decision. Other issues in Part B include the use of CCR in closure, alternate liner demonstrations for unlined units, completion of closure by removal when corrective action is not complete, annual closure progress reports, and a modification to the notice of intent to close. These two proposals (Parts A and B) are currently expected to be signed in early fall.

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The third proposed rulemaking package, *Federal CCR Permit Program*, will propose new regulations to implement a federal CCR permitting program as authorized under the WIIN Act. EPA is expecting to propose this new program by the end of 2019. EPA's current goal is to finalize these proposed packages in 2020.

Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Pamela Janifer in EPA's Office of Congressional and Intergovernmental Relations at Janifer.Pamela@epa.gov or (202) 564-6969.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter C. Wright", with a stylized, cursive script.

Peter C. Wright
Assistant Administrator

11/11/11



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV - 1 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

The Honorable Bobby L. Rush
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Rush:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how EPA is monitoring compliance and implementation of the CCR rule.

On April 17, 2015, EPA published a final rule that established comprehensive requirements for the disposal of CCR in surface impoundments and landfills. While some of these regulations were challenged in court¹, the majority went into effect and are currently being implemented. These regulations address the risks from coal ash disposal -- releases of contaminants into groundwater, into the air as dust, and the structural failure of coal ash surface impoundments. The rule also contains requirements for identifying and responding to releases of constituents to the environment, including groundwater monitoring and corrective action, and procedures governing the closure of CCR units. Additionally, the rule sets out recordkeeping and reporting requirements and requires each facility to establish and post specific information to a publicly accessible website. These posting requirements created important transparency regarding compliance with, and implementation of, the CCR regulatory requirements.

Under the regulations, CCR surface impoundments found to have exceedances of regulatory levels must undergo assessment of corrective measures to determine the extent of the contamination, what steps are necessary to limit further contamination, and an analysis of the effectiveness of potential corrective measures. Two of the most important website-posting requirements are the groundwater monitoring notifications and the annual groundwater monitoring and corrective action reports. EPA and our state partners are closely observing facilities' groundwater monitoring data and corrective action postings, tracking how facilities are progressing through the groundwater monitoring process, i.e., from detection monitoring to assessment monitoring to assessment of corrective measures.

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assistance letters to every facility covered by the CCR rule (except facilities located in Oklahoma, which has an approved CCR program). These letters requested that facilities verify that their publicly accessible websites contain the information required by the regulations, and, if not, that they would update their websites. Enclosed with each letter was a summary of the actions that facilities must take and document on their websites to comply with the CCR regulations.² Since sending these letters, EPA has observed many facilities updating their websites to come into compliance. In addition, our headquarters offices are working with EPA regional offices to determine appropriate strategies to assess compliance with other elements of the CCR rule. Finally, EPA is coordinating with our state partners on additional compliance assistance and enforcement efforts.

Following up on your questions related to additional CCR rulemakings, EPA is aggressively working to update the coal ash regulations in response to the D.C. Circuit Court decisions³ and to respond to the Water Infrastructure Improvements for the Nation (WIIN) Act, which, among other matters, provided EPA with the ability to directly enforce the CCR regulations. This effort included the March 2018 proposal of several provisions designed to address current implementation issues.⁴ Some additional proposed revisions are intended to address other implementation issues EPA has identified as owners and operators continue to take actions required under the rule. To this end, EPA is actively developing three proposed rule packages, which are described in more detail below.

The first proposed rule, *Enhancing Public Access to Information and Reconsideration of Beneficial Use Criteria and Piles*, was signed by the EPA Administrator on July 29, 2019, and published in the Federal Register on August 14, 2019. This proposal addresses provisions remanded by the court in the August 2018 USWAG decision, specifically, the beneficial use provision and definition of piles. Additionally, this proposal would improve public access to the postings on the CCR compliance websites and would standardize the formatting of annual groundwater monitoring reports so that these reports present data in a clear and consistent manner. EPA held an in-person public hearing on October 2, 2019, as well as a virtual public hearing on October 10, 2019, on this proposal.

The second proposed rulemaking package, *A Holistic Approach to Closure Parts A and B*, addresses the remainder of the issues from the court decisions. Part A addresses the remanded deadline for CCR surface impoundments to initiate closure from the Waterkeeper decision in March 2019. Additionally, proposed amendments in Part A would implement the vacatur of parts of the 2015 rule that define “clay-lined” as a type of liner for a CCR surface impoundment and that allow unlined impoundments to continue to operate unless groundwater releases exceed the groundwater protection standard. In Part B, EPA seeks comment on how to regulate inactive surface impoundments at inactive power plants, in response to the USWAG decision. Other issues in Part B include the use of CCR in closure, alternate liner demonstrations for unlined units, completion of closure by removal when corrective action is not complete, annual closure progress reports, and a modification to the notice of intent to close. These two proposals (Parts A and B) are currently expected to be signed in early fall.

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The third proposed rulemaking package, *Federal CCR Permit Program*, will propose new regulations to implement a federal CCR permitting program as authorized under the WIIN Act. EPA is expecting to propose this new program by the end of 2019. EPA's current goal is to finalize these proposed packages in 2020.

Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Pamela Janifer in EPA's Office of Congressional and Intergovernmental Relations at Janifer.Pamela@epa.gov or (202) 564-6969.

Sincerely,

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Peter C. Wright
Assistant Administrator

11/11/11



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV - 1 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

The Honorable John P. Sarbanes
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Sarbanes:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how EPA is monitoring compliance and implementation of the CCR rule.

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In addition, EPA has observed that some publicly accessible websites were missing key documents required under the public posting regulations. In response, in May 2019, EPA mailed compliance assistance letters to every facility covered by the CCR rule (except facilities located in Oklahoma, which has an approved CCR program). These letters requested that facilities verify that their publicly accessible websites contain the information required by the regulations, and, if not, that they would update their websites. Enclosed with each letter was a summary of the actions that facilities must take and document on their websites to comply with the CCR regulations.² Since sending these letters, EPA has observed many facilities updating their websites to come into compliance. In addition, our headquarters offices are working with EPA regional offices to determine appropriate strategies to assess compliance with other elements of the CCR rule. Finally, EPA is coordinating with our state partners on additional compliance assistance and enforcement efforts.

Following up on your questions related to additional CCR rulemakings, EPA is aggressively working to update the coal ash regulations in response to the D.C. Circuit Court decisions³ and to respond to the Water Infrastructure Improvements for the Nation (WIIN) Act, which, among other matters, provided EPA with the ability to directly enforce the CCR regulations. This effort included the March 2018 proposal of several provisions designed to address current implementation issues.⁴ Some additional proposed revisions are intended to address other implementation issues EPA has identified as owners and operators continue to take actions required under the rule. To this end, EPA is actively developing three proposed rule packages, which are described in more detail below.

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The second proposed rulemaking package, *A Holistic Approach to Closure Parts A and B*, addresses the remainder of the issues from the court decisions. Part A addresses the remanded deadline for CCR surface impoundments to initiate closure from the Waterkeeper decision in March 2019. Additionally, proposed amendments in Part A would implement the vacatur of parts of the 2015 rule that define “clay-lined” as a type of liner for a CCR surface impoundment and that allow unlined impoundments to continue to operate unless groundwater releases exceed the groundwater protection standard. In Part B, EPA seeks comment on how to regulate inactive surface impoundments at inactive power plants, in response to the USWAG decision. Other issues in Part B include the use of CCR in closure, alternate liner demonstrations for unlined units, completion of closure by removal when corrective action is not

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Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Pamela Janifer in EPA's Office of Congressional and Intergovernmental Relations at Janifer.Pamela@epa.gov or (202) 564-6969.

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Peter C. Wright
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV - 1 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

The Honorable David Price
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Price:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how EPA is monitoring compliance and implementation of the CCR rule.

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assistance letters to every facility covered by the CCR rule (except facilities located in Oklahoma, which has an approved CCR program). These letters requested that facilities verify that their publicly accessible websites contain the information required by the regulations, and, if not, that they would update their websites. Enclosed with each letter was a summary of the actions that facilities must take and document on their websites to comply with the CCR regulations.² Since sending these letters, EPA has observed many facilities updating their websites to come into compliance. In addition, our headquarters offices are working with EPA regional offices to determine appropriate strategies to assess compliance with other elements of the CCR rule. Finally, EPA is coordinating with our state partners on additional compliance assistance and enforcement efforts.

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The second proposed rulemaking package, *A Holistic Approach to Closure Parts A and B*, addresses the remainder of the issues from the court decisions. Part A addresses the remanded deadline for CCR surface impoundments to initiate closure from the Waterkeeper decision in March 2019. Additionally, proposed amendments in Part A would implement the vacatur of parts of the 2015 rule that define “clay-lined” as a type of liner for a CCR surface impoundment and that allow unlined impoundments to continue to operate unless groundwater releases exceed the groundwater protection standard. In Part B, EPA seeks comment on how to regulate inactive surface impoundments at inactive power plants, in response to the USWAG decision. Other issues in Part B include the use of CCR in closure, alternate liner demonstrations for unlined units, completion of closure by removal when corrective action is not complete, annual closure progress reports, and a modification to the notice of intent to close. These two proposals (Parts A and B) are currently expected to be signed in early fall.

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Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Pamela Janifer in EPA's Office of Congressional and Intergovernmental Relations at Janifer.Pamela@epa.gov or (202) 564-6969.

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Peter C. Wright
Assistant Administrator

11/11/11



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV - 1 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

The Honorable Gerald E. Connolly
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Connolly:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how EPA is monitoring compliance and implementation of the CCR rule.

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Sincerely,

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Peter C. Wright
Assistant Administrator

10/10/10



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

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OFFICE OF
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MANAGEMENT

The Honorable Alan Lowenthal
U.S. House of Representatives
Washington, D.C. 20515

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assistance letters to every facility covered by the CCR rule (except facilities located in Oklahoma, which has an approved CCR program). These letters requested that facilities verify that their publicly accessible websites contain the information required by the regulations, and, if not, that they would update their websites. Enclosed with each letter was a summary of the actions that facilities must take and document on their websites to comply with the CCR regulations.² Since sending these letters, EPA has observed many facilities updating their websites to come into compliance. In addition, our headquarters offices are working with EPA regional offices to determine appropriate strategies to assess compliance with other elements of the CCR rule. Finally, EPA is coordinating with our state partners on additional compliance assistance and enforcement efforts.

Following up on your questions related to additional CCR rulemakings, EPA is aggressively working to update the coal ash regulations in response to the D.C. Circuit Court decisions³ and to respond to the Water Infrastructure Improvements for the Nation (WIIN) Act, which, among other matters, provided EPA with the ability to directly enforce the CCR regulations. This effort included the March 2018 proposal of several provisions designed to address current implementation issues.⁴ Some additional proposed revisions are intended to address other implementation issues EPA has identified as owners and operators continue to take actions required under the rule. To this end, EPA is actively developing three proposed rule packages, which are described in more detail below.

The first proposed rule, *Enhancing Public Access to Information and Reconsideration of Beneficial Use Criteria and Piles*, was signed by the EPA Administrator on July 29, 2019, and published in the Federal Register on August 14, 2019. This proposal addresses provisions remanded by the court in the August 2018 USWAG decision, specifically, the beneficial use provision and definition of piles. Additionally, this proposal would improve public access to the postings on the CCR compliance websites and would standardize the formatting of annual groundwater monitoring reports so that these reports present data in a clear and consistent manner. EPA held an in-person public hearing on October 2, 2019, as well as a virtual public hearing on October 10, 2019, on this proposal.

The second proposed rulemaking package, *A Holistic Approach to Closure Parts A and B*, addresses the remainder of the issues from the court decisions. Part A addresses the remanded deadline for CCR surface impoundments to initiate closure from the Waterkeeper decision in March 2019. Additionally, proposed amendments in Part A would implement the vacatur of parts of the 2015 rule that define “clay-lined” as a type of liner for a CCR surface impoundment and that allow unlined impoundments to continue to operate unless groundwater releases exceed the groundwater protection standard. In Part B, EPA seeks comment on how to regulate inactive surface impoundments at inactive power plants, in response to the USWAG decision. Other issues in Part B include the use of CCR in closure, alternate liner demonstrations for unlined units, completion of closure by removal when corrective action is not complete, annual closure progress reports, and a modification to the notice of intent to close. These two proposals (Parts A and B) are currently expected to be signed in early fall.

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Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Pamela Janifer in EPA's Office of Congressional and Intergovernmental Relations at Janifer.Pamela@epa.gov or (202) 564-6969.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Wright", with a stylized, cursive script.

Peter C. Wright
Assistant Administrator

11/11/11



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV - 1 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

The Honorable Henry C. Johnson
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Johnson:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how EPA is monitoring compliance and implementation of the CCR rule.

On April 17, 2015, EPA published a final rule that established comprehensive requirements for the disposal of CCR in surface impoundments and landfills. While some of these regulations were challenged in court¹, the majority went into effect and are currently being implemented. These regulations address the risks from coal ash disposal -- releases of contaminants into groundwater, into the air as dust, and the structural failure of coal ash surface impoundments. The rule also contains requirements for identifying and responding to releases of constituents to the environment, including groundwater monitoring and corrective action, and procedures governing the closure of CCR units. Additionally, the rule sets out recordkeeping and reporting requirements and requires each facility to establish and post specific information to a publicly accessible website. These posting requirements created important transparency regarding compliance with, and implementation of, the CCR regulatory requirements.

Under the regulations, CCR surface impoundments found to have exceedances of regulatory levels must undergo assessment of corrective measures to determine the extent of the contamination, what steps are necessary to limit further contamination, and an analysis of the effectiveness of potential corrective measures. Two of the most important website-posting requirements are the groundwater monitoring notifications and the annual groundwater monitoring and corrective action reports. EPA and our state partners are closely observing facilities' groundwater monitoring data and corrective action postings, tracking how facilities are progressing through the groundwater monitoring process, i.e., from detection monitoring to assessment monitoring to assessment of corrective measures.

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Following up on your questions related to additional CCR rulemakings, EPA is aggressively working to update the coal ash regulations in response to the D.C. Circuit Court decisions³ and to respond to the Water Infrastructure Improvements for the Nation (WIIN) Act, which, among other matters, provided EPA with the ability to directly enforce the CCR regulations. This effort included the March 2018 proposal of several provisions designed to address current implementation issues.⁴ Some additional proposed revisions are intended to address other implementation issues EPA has identified as owners and operators continue to take actions required under the rule. To this end, EPA is actively developing three proposed rule packages, which are described in more detail below.

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The second proposed rulemaking package, *A Holistic Approach to Closure Parts A and B*, addresses the remainder of the issues from the court decisions. Part A addresses the remanded deadline for CCR surface impoundments to initiate closure from the Waterkeeper decision in March 2019. Additionally, proposed amendments in Part A would implement the vacatur of parts of the 2015 rule that define “clay-lined” as a type of liner for a CCR surface impoundment and that allow unlined impoundments to continue to operate unless groundwater releases exceed the groundwater protection standard. In Part B, EPA seeks comment on how to regulate inactive surface impoundments at inactive power plants, in response to the USWAG decision. Other issues in Part B include the use of CCR in closure, alternate liner demonstrations for unlined units, completion of closure by removal when corrective action is not complete, annual closure progress reports, and a modification to the notice of intent to close. These two proposals (Parts A and B) are currently expected to be signed in early fall.

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Sincerely,

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Peter C. Wright
Assistant Administrator

10/10/10



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV - 1 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

The Honorable Nanette Diaz Barragán
U.S. House of Representatives
Washington, D.C. 20515

Dear Congresswoman Barragán:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how EPA is monitoring compliance and implementation of the CCR rule.

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The second proposed rulemaking package, *A Holistic Approach to Closure Parts A and B*, addresses the remainder of the issues from the court decisions. Part A addresses the remanded deadline for CCR surface impoundments to initiate closure from the Waterkeeper decision in March 2019. Additionally, proposed amendments in Part A would implement the vacatur of parts of the 2015 rule that define “clay-lined” as a type of liner for a CCR surface impoundment and that allow unlined impoundments to continue to operate unless groundwater releases exceed the groundwater protection standard. In Part B, EPA seeks comment on how to regulate inactive surface impoundments at inactive power plants, in response to the USWAG decision. Other issues in Part B include the use of CCR in closure, alternate liner demonstrations for unlined units, completion of closure by removal when corrective action is not complete, annual closure progress reports, and a modification to the notice of intent to close. These two proposals (Parts A and B) are currently expected to be signed in early fall.

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Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Pamela Janifer in EPA's Office of Congressional and Intergovernmental Relations at Janifer.Pamela@epa.gov or (202) 564-6969.

Sincerely,

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Peter C. Wright
Assistant Administrator

11/11/11



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV - 1 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

The Honorable Donald S. Beyer, Jr.
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Beyer:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how EPA is monitoring compliance and implementation of the CCR rule.

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Following up on your questions related to additional CCR rulemakings, EPA is aggressively working to update the coal ash regulations in response to the D.C. Circuit Court decisions³ and to respond to the Water Infrastructure Improvements for the Nation (WIIN) Act, which, among other matters, provided EPA with the ability to directly enforce the CCR regulations. This effort included the March 2018 proposal of several provisions designed to address current implementation issues.⁴ Some additional proposed revisions are intended to address other implementation issues EPA has identified as owners and operators continue to take actions required under the rule. To this end, EPA is actively developing three proposed rule packages, which are described in more detail below.

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The second proposed rulemaking package, *A Holistic Approach to Closure Parts A and B*, addresses the remainder of the issues from the court decisions. Part A addresses the remanded deadline for CCR surface impoundments to initiate closure from the Waterkeeper decision in March 2019. Additionally, proposed amendments in Part A would implement the vacatur of parts of the 2015 rule that define “clay-lined” as a type of liner for a CCR surface impoundment and that allow unlined impoundments to continue to operate unless groundwater releases exceed the groundwater protection standard. In Part B, EPA seeks comment on how to regulate inactive surface impoundments at inactive power plants, in response to the USWAG decision. Other issues in Part B include the use of CCR in closure, alternate liner demonstrations for unlined units, completion of closure by removal when corrective action is not complete, annual closure progress reports, and a modification to the notice of intent to close. These two proposals (Parts A and B) are currently expected to be signed in early fall.

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Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Pamela Janifer in EPA's Office of Congressional and Intergovernmental Relations at Janifer.Pamela@epa.gov or (202) 564-6969.

Sincerely,

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Peter C. Wright
Assistant Administrator

11/11/11



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV - 1 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

The Honorable Jamie Raskin
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Raskin:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how EPA is monitoring compliance and implementation of the CCR rule.

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Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Pamela Janifer in EPA's Office of Congressional and Intergovernmental Relations at Janifer.Pamela@epa.gov or (202) 564-6969.

Sincerely,

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Peter C. Wright
Assistant Administrator

~~11/11/11~~



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV - 1 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

The Honorable Bill Foster
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Foster:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how EPA is monitoring compliance and implementation of the CCR rule.

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The second proposed rulemaking package, *A Holistic Approach to Closure Parts A and B*, addresses the remainder of the issues from the court decisions. Part A addresses the remanded deadline for CCR surface impoundments to initiate closure from the Waterkeeper decision in March 2019. Additionally, proposed amendments in Part A would implement the vacatur of parts of the 2015 rule that define “clay-lined” as a type of liner for a CCR surface impoundment and that allow unlined impoundments to continue to operate unless groundwater releases exceed the groundwater protection standard. In Part B, EPA seeks comment on how to regulate inactive surface impoundments at inactive power plants, in response to the USWAG decision. Other issues in Part B include the use of CCR in closure, alternate liner demonstrations for unlined units, completion of closure by removal when corrective action is not complete, annual closure progress reports, and a modification to the notice of intent to close. These two proposals (Parts A and B) are currently expected to be signed in early fall.

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Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Pamela Janifer in EPA's Office of Congressional and Intergovernmental Relations at Janifer.Pamela@epa.gov or (202) 564-6969.

Sincerely,

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Peter C. Wright
Assistant Administrator

11/11/11



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV - 1 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

The Honorable Ro Khanna
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Khanna:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how EPA is monitoring compliance and implementation of the CCR rule.

On April 17, 2015, EPA published a final rule that established comprehensive requirements for the disposal of CCR in surface impoundments and landfills. While some of these regulations were challenged in court¹, the majority went into effect and are currently being implemented. These regulations address the risks from coal ash disposal -- releases of contaminants into groundwater, into the air as dust, and the structural failure of coal ash surface impoundments. The rule also contains requirements for identifying and responding to releases of constituents to the environment, including groundwater monitoring and corrective action, and procedures governing the closure of CCR units. Additionally, the rule sets out recordkeeping and reporting requirements and requires each facility to establish and post specific information to a publicly accessible website. These posting requirements created important transparency regarding compliance with, and implementation of, the CCR regulatory requirements.

Under the regulations, CCR surface impoundments found to have exceedances of regulatory levels must undergo assessment of corrective measures to determine the extent of the contamination, what steps are necessary to limit further contamination, and an analysis of the effectiveness of potential corrective measures. Two of the most important website-posting requirements are the groundwater monitoring notifications and the annual groundwater monitoring and corrective action reports. EPA and our state partners are closely observing facilities' groundwater monitoring data and corrective action postings, tracking how facilities are progressing through the groundwater monitoring process, i.e., from detection monitoring to assessment monitoring to assessment of corrective measures.

In addition, EPA has observed that some publicly accessible websites were missing key documents required under the public posting regulations. In response, in May 2019, EPA mailed compliance

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assistance letters to every facility covered by the CCR rule (except facilities located in Oklahoma, which has an approved CCR program). These letters requested that facilities verify that their publicly accessible websites contain the information required by the regulations, and, if not, that they would update their websites. Enclosed with each letter was a summary of the actions that facilities must take and document on their websites to comply with the CCR regulations.² Since sending these letters, EPA has observed many facilities updating their websites to come into compliance. In addition, our headquarters offices are working with EPA regional offices to determine appropriate strategies to assess compliance with other elements of the CCR rule. Finally, EPA is coordinating with our state partners on additional compliance assistance and enforcement efforts.

Following up on your questions related to additional CCR rulemakings, EPA is aggressively working to update the coal ash regulations in response to the D.C. Circuit Court decisions³ and to respond to the Water Infrastructure Improvements for the Nation (WIIN) Act, which, among other matters, provided EPA with the ability to directly enforce the CCR regulations. This effort included the March 2018 proposal of several provisions designed to address current implementation issues.⁴ Some additional proposed revisions are intended to address other implementation issues EPA has identified as owners and operators continue to take actions required under the rule. To this end, EPA is actively developing three proposed rule packages, which are described in more detail below.

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The second proposed rulemaking package, *A Holistic Approach to Closure Parts A and B*, addresses the remainder of the issues from the court decisions. Part A addresses the remanded deadline for CCR surface impoundments to initiate closure from the Waterkeeper decision in March 2019. Additionally, proposed amendments in Part A would implement the vacatur of parts of the 2015 rule that define “clay-lined” as a type of liner for a CCR surface impoundment and that allow unlined impoundments to continue to operate unless groundwater releases exceed the groundwater protection standard. In Part B, EPA seeks comment on how to regulate inactive surface impoundments at inactive power plants, in response to the USWAG decision. Other issues in Part B include the use of CCR in closure, alternate liner demonstrations for unlined units, completion of closure by removal when corrective action is not complete, annual closure progress reports, and a modification to the notice of intent to close. These two proposals (Parts A and B) are currently expected to be signed in early fall.

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Peter C. Wright
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV - 1 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

The Honorable Anna G. Eshoo
U.S. House of Representatives
Washington, D.C. 20515

Dear Congresswoman Eshoo:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how EPA is monitoring compliance and implementation of the CCR rule.

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The second proposed rulemaking package, *A Holistic Approach to Closure Parts A and B*, addresses the remainder of the issues from the court decisions. Part A addresses the remanded deadline for CCR surface impoundments to initiate closure from the Waterkeeper decision in March 2019. Additionally, proposed amendments in Part A would implement the vacatur of parts of the 2015 rule that define “clay-lined” as a type of liner for a CCR surface impoundment and that allow unlined impoundments to continue to operate unless groundwater releases exceed the groundwater protection standard. In Part B, EPA seeks comment on how to regulate inactive surface impoundments at inactive power plants, in response to the USWAG decision. Other issues in Part B include the use of CCR in closure, alternate liner demonstrations for unlined units, completion of closure by removal when corrective action is not complete, annual closure progress reports, and a modification to the notice of intent to close. These two proposals (Parts A and B) are currently expected to be signed in early fall.

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Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Pamela Janifer in EPA's Office of Congressional and Intergovernmental Relations at Janifer.Pamela@epa.gov or (202) 564-6969.

Sincerely,

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Peter C. Wright
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV - 1 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

The Honorable André Carson
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Carson:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how EPA is monitoring compliance and implementation of the CCR rule.

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Following up on your questions related to additional CCR rulemakings, EPA is aggressively working to update the coal ash regulations in response to the D.C. Circuit Court decisions³ and to respond to the Water Infrastructure Improvements for the Nation (WIIN) Act, which, among other matters, provided EPA with the ability to directly enforce the CCR regulations. This effort included the March 2018 proposal of several provisions designed to address current implementation issues.⁴ Some additional proposed revisions are intended to address other implementation issues EPA has identified as owners and operators continue to take actions required under the rule. To this end, EPA is actively developing three proposed rule packages, which are described in more detail below.

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Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Pamela Janifer in EPA's Office of Congressional and Intergovernmental Relations at Janifer.Pamela@epa.gov or (202) 564-6969.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter C. Wright", written in a cursive style.

Peter C. Wright
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV - 1 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

The Honorable Lisa Blunt Rochester
U.S. House of Representatives
Washington, D.C. 20515

Dear Congresswoman Blunt Rochester:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how EPA is monitoring compliance and implementation of the CCR rule.

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Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Pamela Janifer in EPA's Office of Congressional and Intergovernmental Relations at Janifer.Pamela@epa.gov or (202) 564-6969.

Sincerely,

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Peter C. Wright
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV - 1 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

The Honorable Eleanor Holmes Norton
U.S. House of Representatives
Washington, D.C. 20515

Dear Congresswoman Holmes Norton:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how EPA is monitoring compliance and implementation of the CCR rule.

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Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Pamela Janifer in EPA's Office of Congressional and Intergovernmental Relations at Janifer.Pamela@epa.gov or (202) 564-6969.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter C. Wright", written in a cursive style.

Peter C. Wright
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV - 1 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

The Honorable Peter DeFazio
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman DeFazio:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how EPA is monitoring compliance and implementation of the CCR rule.

On April 17, 2015, EPA published a final rule that established comprehensive requirements for the disposal of CCR in surface impoundments and landfills. While some of these regulations were challenged in court¹, the majority went into effect and are currently being implemented. These regulations address the risks from coal ash disposal -- releases of contaminants into groundwater, into the air as dust, and the structural failure of coal ash surface impoundments. The rule also contains requirements for identifying and responding to releases of constituents to the environment, including groundwater monitoring and corrective action, and procedures governing the closure of CCR units. Additionally, the rule sets out recordkeeping and reporting requirements and requires each facility to establish and post specific information to a publicly accessible website. These posting requirements created important transparency regarding compliance with, and implementation of, the CCR regulatory requirements.

Under the regulations, CCR surface impoundments found to have exceedances of regulatory levels must undergo assessment of corrective measures to determine the extent of the contamination, what steps are necessary to limit further contamination, and an analysis of the effectiveness of potential corrective measures. Two of the most important website-posting requirements are the groundwater monitoring notifications and the annual groundwater monitoring and corrective action reports. EPA and our state partners are closely observing facilities' groundwater monitoring data and corrective action postings, tracking how facilities are progressing through the groundwater monitoring process, i.e., from detection monitoring to assessment monitoring to assessment of corrective measures.

In addition, EPA has observed that some publicly accessible websites were missing key documents required under the public posting regulations. In response, in May 2019, EPA mailed compliance

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assistance letters to every facility covered by the CCR rule (except facilities located in Oklahoma, which has an approved CCR program). These letters requested that facilities verify that their publicly accessible websites contain the information required by the regulations, and, if not, that they would update their websites. Enclosed with each letter was a summary of the actions that facilities must take and document on their websites to comply with the CCR regulations.² Since sending these letters, EPA has observed many facilities updating their websites to come into compliance. In addition, our headquarters offices are working with EPA regional offices to determine appropriate strategies to assess compliance with other elements of the CCR rule. Finally, EPA is coordinating with our state partners on additional compliance assistance and enforcement efforts.

Following up on your questions related to additional CCR rulemakings, EPA is aggressively working to update the coal ash regulations in response to the D.C. Circuit Court decisions³ and to respond to the Water Infrastructure Improvements for the Nation (WIIN) Act, which, among other matters, provided EPA with the ability to directly enforce the CCR regulations. This effort included the March 2018 proposal of several provisions designed to address current implementation issues.⁴ Some additional proposed revisions are intended to address other implementation issues EPA has identified as owners and operators continue to take actions required under the rule. To this end, EPA is actively developing three proposed rule packages, which are described in more detail below.

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The second proposed rulemaking package, *A Holistic Approach to Closure Parts A and B*, addresses the remainder of the issues from the court decisions. Part A addresses the remanded deadline for CCR surface impoundments to initiate closure from the Waterkeeper decision in March 2019. Additionally, proposed amendments in Part A would implement the vacatur of parts of the 2015 rule that define “clay-lined” as a type of liner for a CCR surface impoundment and that allow unlined impoundments to continue to operate unless groundwater releases exceed the groundwater protection standard. In Part B, EPA seeks comment on how to regulate inactive surface impoundments at inactive power plants, in response to the USWAG decision. Other issues in Part B include the use of CCR in closure, alternate liner demonstrations for unlined units, completion of closure by removal when corrective action is not complete, annual closure progress reports, and a modification to the notice of intent to close. These two proposals (Parts A and B) are currently expected to be signed in early fall.

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Peter C. Wright
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV - 1 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

The Honorable Jan Schakowsky
U.S. House of Representatives
Washington, D.C. 20515

Dear Congresswoman Schakowsky:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how EPA is monitoring compliance and implementation of the CCR rule.

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The second proposed rulemaking package, *A Holistic Approach to Closure Parts A and B*, addresses the remainder of the issues from the court decisions. Part A addresses the remanded deadline for CCR surface impoundments to initiate closure from the Waterkeeper decision in March 2019. Additionally, proposed amendments in Part A would implement the vacatur of parts of the 2015 rule that define “clay-lined” as a type of liner for a CCR surface impoundment and that allow unlined impoundments to continue to operate unless groundwater releases exceed the groundwater protection standard. In Part B, EPA seeks comment on how to regulate inactive surface impoundments at inactive power plants, in response to the USWAG decision. Other issues in Part B include the use of CCR in closure, alternate liner demonstrations for unlined units, completion of closure by removal when corrective action is not complete, annual closure progress reports, and a modification to the notice of intent to close. These two proposals (Parts A and B) are currently expected to be signed in early fall.

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Sincerely,

A handwritten signature in black ink, appearing to read "Peter C. Wright", written in a cursive style.

Peter C. Wright
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV - 1 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

The Honorable Betty McCollum
U.S. House of Representatives
Washington, D.C. 20515

Dear Congresswoman McCollum:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how EPA is monitoring compliance and implementation of the CCR rule.

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Following up on your questions related to additional CCR rulemakings, EPA is aggressively working to update the coal ash regulations in response to the D.C. Circuit Court decisions³ and to respond to the Water Infrastructure Improvements for the Nation (WIIN) Act, which, among other matters, provided EPA with the ability to directly enforce the CCR regulations. This effort included the March 2018 proposal of several provisions designed to address current implementation issues.⁴ Some additional proposed revisions are intended to address other implementation issues EPA has identified as owners and operators continue to take actions required under the rule. To this end, EPA is actively developing three proposed rule packages, which are described in more detail below.

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The second proposed rulemaking package, *A Holistic Approach to Closure Parts A and B*, addresses the remainder of the issues from the court decisions. Part A addresses the remanded deadline for CCR surface impoundments to initiate closure from the Waterkeeper decision in March 2019. Additionally, proposed amendments in Part A would implement the vacatur of parts of the 2015 rule that define “clay-lined” as a type of liner for a CCR surface impoundment and that allow unlined impoundments to continue to operate unless groundwater releases exceed the groundwater protection standard. In Part B, EPA seeks comment on how to regulate inactive surface impoundments at inactive power plants, in response to the USWAG decision. Other issues in Part B include the use of CCR in closure, alternate liner demonstrations for unlined units, completion of closure by removal when corrective action is not complete, annual closure progress reports, and a modification to the notice of intent to close. These two proposals (Parts A and B) are currently expected to be signed in early fall.

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Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Pamela Janifer in EPA's Office of Congressional and Intergovernmental Relations at Janifer.Pamela@epa.gov or (202) 564-6969.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Wright", written in a cursive style.

Peter C. Wright
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV - 1 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

The Honorable Sean Casten
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Casten:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how EPA is monitoring compliance and implementation of the CCR rule.

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Following up on your questions related to additional CCR rulemakings, EPA is aggressively working to update the coal ash regulations in response to the D.C. Circuit Court decisions³ and to respond to the Water Infrastructure Improvements for the Nation (WIIN) Act, which, among other matters, provided EPA with the ability to directly enforce the CCR regulations. This effort included the March 2018 proposal of several provisions designed to address current implementation issues.⁴ Some additional proposed revisions are intended to address other implementation issues EPA has identified as owners and operators continue to take actions required under the rule. To this end, EPA is actively developing three proposed rule packages, which are described in more detail below.

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Sincerely,

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Peter C. Wright
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV - 1 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

The Honorable Darren Soto
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Soto:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how EPA is monitoring compliance and implementation of the CCR rule.

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Sincerely,

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Peter C. Wright
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV - 1 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

The Honorable Nydia M. Velázquez
U.S. House of Representatives
Washington, D.C. 20515

Dear Congresswoman Velázquez:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how EPA is monitoring compliance and implementation of the CCR rule.

On April 17, 2015, EPA published a final rule that established comprehensive requirements for the disposal of CCR in surface impoundments and landfills. While some of these regulations were challenged in court¹, the majority went into effect and are currently being implemented. These regulations address the risks from coal ash disposal -- releases of contaminants into groundwater, into the air as dust, and the structural failure of coal ash surface impoundments. The rule also contains requirements for identifying and responding to releases of constituents to the environment, including groundwater monitoring and corrective action, and procedures governing the closure of CCR units. Additionally, the rule sets out recordkeeping and reporting requirements and requires each facility to establish and post specific information to a publicly accessible website. These posting requirements created important transparency regarding compliance with, and implementation of, the CCR regulatory requirements.

Under the regulations, CCR surface impoundments found to have exceedances of regulatory levels must undergo assessment of corrective measures to determine the extent of the contamination, what steps are necessary to limit further contamination, and an analysis of the effectiveness of potential corrective measures. Two of the most important website-posting requirements are the groundwater monitoring notifications and the annual groundwater monitoring and corrective action reports. EPA and our state partners are closely observing facilities' groundwater monitoring data and corrective action postings, tracking how facilities are progressing through the groundwater monitoring process, i.e., from detection monitoring to assessment monitoring to assessment of corrective measures.

In addition, EPA has observed that some publicly accessible websites were missing key documents required under the public posting regulations. In response, in May 2019, EPA mailed compliance

¹ Utility Solid Waste Activities Group, et al, v. EPA, et al. 901 F.3d 414 (D.C. Cir 2018).

assistance letters to every facility covered by the CCR rule (except facilities located in Oklahoma, which has an approved CCR program). These letters requested that facilities verify that their publicly accessible websites contain the information required by the regulations, and, if not, that they would update their websites. Enclosed with each letter was a summary of the actions that facilities must take and document on their websites to comply with the CCR regulations.² Since sending these letters, EPA has observed many facilities updating their websites to come into compliance. In addition, our headquarters offices are working with EPA regional offices to determine appropriate strategies to assess compliance with other elements of the CCR rule. Finally, EPA is coordinating with our state partners on additional compliance assistance and enforcement efforts.

Following up on your questions related to additional CCR rulemakings, EPA is aggressively working to update the coal ash regulations in response to the D.C. Circuit Court decisions³ and to respond to the Water Infrastructure Improvements for the Nation (WIIN) Act, which, among other matters, provided EPA with the ability to directly enforce the CCR regulations. This effort included the March 2018 proposal of several provisions designed to address current implementation issues.⁴ Some additional proposed revisions are intended to address other implementation issues EPA has identified as owners and operators continue to take actions required under the rule. To this end, EPA is actively developing three proposed rule packages, which are described in more detail below.

The first proposed rule, *Enhancing Public Access to Information and Reconsideration of Beneficial Use Criteria and Piles*, was signed by the EPA Administrator on July 29, 2019, and published in the Federal Register on August 14, 2019. This proposal addresses provisions remanded by the court in the August 2018 USWAG decision, specifically, the beneficial use provision and definition of piles. Additionally, this proposal would improve public access to the postings on the CCR compliance websites and would standardize the formatting of annual groundwater monitoring reports so that these reports present data in a clear and consistent manner. EPA held an in-person public hearing on October 2, 2019, as well as a virtual public hearing on October 10, 2019, on this proposal.

The second proposed rulemaking package, *A Holistic Approach to Closure Parts A and B*, addresses the remainder of the issues from the court decisions. Part A addresses the remanded deadline for CCR surface impoundments to initiate closure from the Waterkeeper decision in March 2019. Additionally, proposed amendments in Part A would implement the vacatur of parts of the 2015 rule that define “clay-lined” as a type of liner for a CCR surface impoundment and that allow unlined impoundments to continue to operate unless groundwater releases exceed the groundwater protection standard. In Part B, EPA seeks comment on how to regulate inactive surface impoundments at inactive power plants, in response to the USWAG decision. Other issues in Part B include the use of CCR in closure, alternate liner demonstrations for unlined units, completion of closure by removal when corrective action is not complete, annual closure progress reports, and a modification to the notice of intent to close. These two proposals (Parts A and B) are currently expected to be signed in early fall.

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The third proposed rulemaking package, *Federal CCR Permit Program*, will propose new regulations to implement a federal CCR permitting program as authorized under the WIIN Act. EPA is expecting to propose this new program by the end of 2019. EPA's current goal is to finalize these proposed packages in 2020.

Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Pamela Janifer in EPA's Office of Congressional and Intergovernmental Relations at Janifer.Pamela@epa.gov or (202) 564-6969.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter C. Wright", written over a horizontal line.

Peter C. Wright
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV - 1 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

The Honorable Donald M. Payne, Jr.
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Payne:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how EPA is monitoring compliance and implementation of the CCR rule.

On April 17, 2015, EPA published a final rule that established comprehensive requirements for the disposal of CCR in surface impoundments and landfills. While some of these regulations were challenged in court¹, the majority went into effect and are currently being implemented. These regulations address the risks from coal ash disposal -- releases of contaminants into groundwater, into the air as dust, and the structural failure of coal ash surface impoundments. The rule also contains requirements for identifying and responding to releases of constituents to the environment, including groundwater monitoring and corrective action, and procedures governing the closure of CCR units. Additionally, the rule sets out recordkeeping and reporting requirements and requires each facility to establish and post specific information to a publicly accessible website. These posting requirements created important transparency regarding compliance with, and implementation of, the CCR regulatory requirements.

Under the regulations, CCR surface impoundments found to have exceedances of regulatory levels must undergo assessment of corrective measures to determine the extent of the contamination, what steps are necessary to limit further contamination, and an analysis of the effectiveness of potential corrective measures. Two of the most important website-posting requirements are the groundwater monitoring notifications and the annual groundwater monitoring and corrective action reports. EPA and our state partners are closely observing facilities' groundwater monitoring data and corrective action postings, tracking how facilities are progressing through the groundwater monitoring process, i.e., from detection monitoring to assessment monitoring to assessment of corrective measures.

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assistance letters to every facility covered by the CCR rule (except facilities located in Oklahoma, which has an approved CCR program). These letters requested that facilities verify that their publicly accessible websites contain the information required by the regulations, and, if not, that they would update their websites. Enclosed with each letter was a summary of the actions that facilities must take and document on their websites to comply with the CCR regulations.² Since sending these letters, EPA has observed many facilities updating their websites to come into compliance. In addition, our headquarters offices are working with EPA regional offices to determine appropriate strategies to assess compliance with other elements of the CCR rule. Finally, EPA is coordinating with our state partners on additional compliance assistance and enforcement efforts.

Following up on your questions related to additional CCR rulemakings, EPA is aggressively working to update the coal ash regulations in response to the D.C. Circuit Court decisions³ and to respond to the Water Infrastructure Improvements for the Nation (WIIN) Act, which, among other matters, provided EPA with the ability to directly enforce the CCR regulations. This effort included the March 2018 proposal of several provisions designed to address current implementation issues.⁴ Some additional proposed revisions are intended to address other implementation issues EPA has identified as owners and operators continue to take actions required under the rule. To this end, EPA is actively developing three proposed rule packages, which are described in more detail below.

The first proposed rule, *Enhancing Public Access to Information and Reconsideration of Beneficial Use Criteria and Piles*, was signed by the EPA Administrator on July 29, 2019, and published in the Federal Register on August 14, 2019. This proposal addresses provisions remanded by the court in the August 2018 USWAG decision, specifically, the beneficial use provision and definition of piles. Additionally, this proposal would improve public access to the postings on the CCR compliance websites and would standardize the formatting of annual groundwater monitoring reports so that these reports present data in a clear and consistent manner. EPA held an in-person public hearing on October 2, 2019, as well as a virtual public hearing on October 10, 2019, on this proposal.

The second proposed rulemaking package, *A Holistic Approach to Closure Parts A and B*, addresses the remainder of the issues from the court decisions. Part A addresses the remanded deadline for CCR surface impoundments to initiate closure from the Waterkeeper decision in March 2019. Additionally, proposed amendments in Part A would implement the vacatur of parts of the 2015 rule that define “clay-lined” as a type of liner for a CCR surface impoundment and that allow unlined impoundments to continue to operate unless groundwater releases exceed the groundwater protection standard. In Part B, EPA seeks comment on how to regulate inactive surface impoundments at inactive power plants, in response to the USWAG decision. Other issues in Part B include the use of CCR in closure, alternate liner demonstrations for unlined units, completion of closure by removal when corrective action is not complete, annual closure progress reports, and a modification to the notice of intent to close. These two proposals (Parts A and B) are currently expected to be signed in early fall.

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Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Pamela Janifer in EPA's Office of Congressional and Intergovernmental Relations at Janifer.Pamela@epa.gov or (202) 564-6969.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Wright", written over a horizontal line.

Peter C. Wright
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV - 1 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

The Honorable Raúl M. Grijalva
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Grijalva:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how EPA is monitoring compliance and implementation of the CCR rule.

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Following up on your questions related to additional CCR rulemakings, EPA is aggressively working to update the coal ash regulations in response to the D.C. Circuit Court decisions³ and to respond to the Water Infrastructure Improvements for the Nation (WIIN) Act, which, among other matters, provided EPA with the ability to directly enforce the CCR regulations. This effort included the March 2018 proposal of several provisions designed to address current implementation issues.⁴ Some additional proposed revisions are intended to address other implementation issues EPA has identified as owners and operators continue to take actions required under the rule. To this end, EPA is actively developing three proposed rule packages, which are described in more detail below.

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The second proposed rulemaking package, *A Holistic Approach to Closure Parts A and B*, addresses the remainder of the issues from the court decisions. Part A addresses the remanded deadline for CCR surface impoundments to initiate closure from the Waterkeeper decision in March 2019. Additionally, proposed amendments in Part A would implement the vacatur of parts of the 2015 rule that define “clay-lined” as a type of liner for a CCR surface impoundment and that allow unlined impoundments to continue to operate unless groundwater releases exceed the groundwater protection standard. In Part B, EPA seeks comment on how to regulate inactive surface impoundments at inactive power plants, in response to the USWAG decision. Other issues in Part B include the use of CCR in closure, alternate liner demonstrations for unlined units, completion of closure by removal when corrective action is not complete, annual closure progress reports, and a modification to the notice of intent to close. These two proposals (Parts A and B) are currently expected to be signed in early fall.

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Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Pamela Janifer in EPA's Office of Congressional and Intergovernmental Relations at Janifer.Pamela@epa.gov or (202) 564-6969.

Sincerely,

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Peter C. Wright
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

NOV - 1 2019

The Honorable Danny K. Davis
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Davis:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how EPA is monitoring compliance and implementation of the CCR rule.

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Under the regulations, CCR surface impoundments found to have exceedances of regulatory levels must undergo assessment of corrective measures to determine the extent of the contamination, what steps are necessary to limit further contamination, and an analysis of the effectiveness of potential corrective measures. Two of the most important website-posting requirements are the groundwater monitoring notifications and the annual groundwater monitoring and corrective action reports. EPA and our state partners are closely observing facilities' groundwater monitoring data and corrective action postings, tracking how facilities are progressing through the groundwater monitoring process, i.e., from detection monitoring to assessment monitoring to assessment of corrective measures.

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assistance letters to every facility covered by the CCR rule (except facilities located in Oklahoma, which has an approved CCR program). These letters requested that facilities verify that their publicly accessible websites contain the information required by the regulations, and, if not, that they would update their websites. Enclosed with each letter was a summary of the actions that facilities must take and document on their websites to comply with the CCR regulations.² Since sending these letters, EPA has observed many facilities updating their websites to come into compliance. In addition, our headquarters offices are working with EPA regional offices to determine appropriate strategies to assess compliance with other elements of the CCR rule. Finally, EPA is coordinating with our state partners on additional compliance assistance and enforcement efforts.

Following up on your questions related to additional CCR rulemakings, EPA is aggressively working to update the coal ash regulations in response to the D.C. Circuit Court decisions³ and to respond to the Water Infrastructure Improvements for the Nation (WIIN) Act, which, among other matters, provided EPA with the ability to directly enforce the CCR regulations. This effort included the March 2018 proposal of several provisions designed to address current implementation issues.⁴ Some additional proposed revisions are intended to address other implementation issues EPA has identified as owners and operators continue to take actions required under the rule. To this end, EPA is actively developing three proposed rule packages, which are described in more detail below.

The first proposed rule, *Enhancing Public Access to Information and Reconsideration of Beneficial Use Criteria and Piles*, was signed by the EPA Administrator on July 29, 2019, and published in the Federal Register on August 14, 2019. This proposal addresses provisions remanded by the court in the August 2018 USWAG decision, specifically, the beneficial use provision and definition of piles. Additionally, this proposal would improve public access to the postings on the CCR compliance websites and would standardize the formatting of annual groundwater monitoring reports so that these reports present data in a clear and consistent manner. EPA held an in-person public hearing on October 2, 2019, as well as a virtual public hearing on October 10, 2019, on this proposal.

The second proposed rulemaking package, *A Holistic Approach to Closure Parts A and B*, addresses the remainder of the issues from the court decisions. Part A addresses the remanded deadline for CCR surface impoundments to initiate closure from the Waterkeeper decision in March 2019. Additionally, proposed amendments in Part A would implement the vacatur of parts of the 2015 rule that define “clay-lined” as a type of liner for a CCR surface impoundment and that allow unlined impoundments to continue to operate unless groundwater releases exceed the groundwater protection standard. In Part B, EPA seeks comment on how to regulate inactive surface impoundments at inactive power plants, in response to the USWAG decision. Other issues in Part B include the use of CCR in closure, alternate liner demonstrations for unlined units, completion of closure by removal when corrective action is not complete, annual closure progress reports, and a modification to the notice of intent to close. These two proposals (Parts A and B) are currently expected to be signed in early fall.

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The third proposed rulemaking package, *Federal CCR Permit Program*, will propose new regulations to implement a federal CCR permitting program as authorized under the WIIN Act. EPA is expecting to propose this new program by the end of 2019. EPA's current goal is to finalize these proposed packages in 2020.

Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Pamela Janifer in EPA's Office of Congressional and Intergovernmental Relations at Janifer.Pamela@epa.gov or (202) 564-6969.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter C. Wright", written in a cursive style.

Peter C. Wright
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV - 1 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

The Honorable Tony Cárdenas
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Cárdenas:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how EPA is monitoring compliance and implementation of the CCR rule.

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Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Pamela Janifer in EPA's Office of Congressional and Intergovernmental Relations at Janifer.Pamela@epa.gov or (202) 564-6969.

Sincerely,

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Peter C. Wright
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV - 1 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

The Honorable Jennifer Wexton
U.S. House of Representatives
Washington, D.C. 20515

Dear Congresswoman Wexton:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how EPA is monitoring compliance and implementation of the CCR rule.

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assistance letters to every facility covered by the CCR rule (except facilities located in Oklahoma, which has an approved CCR program). These letters requested that facilities verify that their publicly accessible websites contain the information required by the regulations, and, if not, that they would update their websites. Enclosed with each letter was a summary of the actions that facilities must take and document on their websites to comply with the CCR regulations.² Since sending these letters, EPA has observed many facilities updating their websites to come into compliance. In addition, our headquarters offices are working with EPA regional offices to determine appropriate strategies to assess compliance with other elements of the CCR rule. Finally, EPA is coordinating with our state partners on additional compliance assistance and enforcement efforts.

Following up on your questions related to additional CCR rulemakings, EPA is aggressively working to update the coal ash regulations in response to the D.C. Circuit Court decisions³ and to respond to the Water Infrastructure Improvements for the Nation (WIIN) Act, which, among other matters, provided EPA with the ability to directly enforce the CCR regulations. This effort included the March 2018 proposal of several provisions designed to address current implementation issues.⁴ Some additional proposed revisions are intended to address other implementation issues EPA has identified as owners and operators continue to take actions required under the rule. To this end, EPA is actively developing three proposed rule packages, which are described in more detail below.

The first proposed rule, *Enhancing Public Access to Information and Reconsideration of Beneficial Use Criteria and Piles*, was signed by the EPA Administrator on July 29, 2019, and published in the Federal Register on August 14, 2019. This proposal addresses provisions remanded by the court in the August 2018 USWAG decision, specifically, the beneficial use provision and definition of piles. Additionally, this proposal would improve public access to the postings on the CCR compliance websites and would standardize the formatting of annual groundwater monitoring reports so that these reports present data in a clear and consistent manner. EPA held an in-person public hearing on October 2, 2019, as well as a virtual public hearing on October 10, 2019, on this proposal.

The second proposed rulemaking package, *A Holistic Approach to Closure Parts A and B*, addresses the remainder of the issues from the court decisions. Part A addresses the remanded deadline for CCR surface impoundments to initiate closure from the Waterkeeper decision in March 2019. Additionally, proposed amendments in Part A would implement the vacatur of parts of the 2015 rule that define “clay-lined” as a type of liner for a CCR surface impoundment and that allow unlined impoundments to continue to operate unless groundwater releases exceed the groundwater protection standard. In Part B, EPA seeks comment on how to regulate inactive surface impoundments at inactive power plants, in response to the USWAG decision. Other issues in Part B include the use of CCR in closure, alternate liner demonstrations for unlined units, completion of closure by removal when corrective action is not complete, annual closure progress reports, and a modification to the notice of intent to close. These two proposals (Parts A and B) are currently expected to be signed in early fall.

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The third proposed rulemaking package, *Federal CCR Permit Program*, will propose new regulations to implement a federal CCR permitting program as authorized under the WIIN Act. EPA is expecting to propose this new program by the end of 2019. EPA's current goal is to finalize these proposed packages in 2020.

Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Pamela Janifer in EPA's Office of Congressional and Intergovernmental Relations at Janifer.Pamela@epa.gov or (202) 564-6969.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Wright", written in a cursive style.

Peter C. Wright
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV - 1 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

The Honorable Barbara Lee
U.S. House of Representatives
Washington, D.C. 20515

Dear Congresswoman Lee:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps the EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how the EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how the EPA is monitoring compliance and implementation of the CCR rule.

On April 17, 2015, the EPA published a final rule that established comprehensive requirements for the disposal of CCR in surface impoundments and landfills. While some of these regulations were challenged in court¹, the majority went into effect and they are being implemented. These regulations address the risks from coal ash disposal -- releases of contaminants into groundwater, into the air as dust, and the structural failure of coal ash surface impoundments. The rule also contains requirements for identifying and responding to releases of constituents to the environment, including groundwater monitoring and corrective action, and procedures governing the closure of CCR units. Additionally, the rule sets out recordkeeping and reporting requirements and requires each facility to establish and post specific information to a publicly accessible website. These posting requirements created important transparency regarding compliance with, and implementation of, the CCR regulatory requirements.

Under the regulations, CCR surface impoundments found to have exceedances of regulatory levels must undergo assessment of corrective measures to determine the extent of the contamination, what steps are necessary to limit further contamination, and an analysis of the effectiveness of potential corrective measures. Two of the most important website-posting requirements are the groundwater monitoring notifications and the annual groundwater monitoring and corrective action reports. The EPA and our state partners are closely observing facilities' groundwater monitoring data and corrective action postings, tracking how facilities are progressing through the groundwater monitoring process, i.e., from detection monitoring to assessment monitoring to assessment of corrective measures.

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You had several specific questions related to additional CCR rulemakings. The EPA is aggressively working to update the coal ash regulations in response to the D.C. Circuit Court decisions³ and to respond to the Water Infrastructure Improvements for the Nation (WIIN) Act, which, among other matters, provided the EPA with the ability to directly enforce the CCR regulations. This effort included the March 2018 proposal of several provisions designed to address current implementation issues.⁴ Some additional proposed revisions are intended to address other implementation issues the EPA has identified as owners and operators continue to take actions required under the rule. To this end, the EPA is actively developing three proposed rule packages, which are described in more detail below.

The first proposed rule, *Enhancing Public Access to Information and Reconsideration of Beneficial Use Criteria and Piles*, was signed by the EPA Administrator on July 29, 2019, and published in the Federal Register on August 14, 2019. This proposal addresses provisions remanded by the court in the August 2018 USWAG decision, specifically, the beneficial use provision and definition of piles. Additionally, this proposal would improve public access to the postings on the CCR compliance websites and would standardize the formatting of annual groundwater monitoring reports so that these reports present data in a clear and consistent manner. This proposal is currently out for public comment, and the EPA will hold an in-person public hearing on October 2, 2019, as well as a virtual public hearing on October 10, 2019, on this proposal.

The second proposed rulemaking package, *A Holistic Approach to Closure Parts A and B*, addresses the remainder of the issues from the court decisions. Part A addresses the remanded deadline for CCR surface impoundments to initiate closure from the Waterkeeper decision in March 2019. Additionally, proposed amendments in Part A would implement the vacatur of parts of the 2015 rule that define “clay-lined” as a type of liner for a CCR surface impoundment and that allow unlined impoundments to continue to operate unless groundwater releases exceed the groundwater protection standard. In Part B, the EPA seeks comment on how to regulate inactive surface impoundments at inactive power plants, in response to the USWAG decision. Other issues in Part B include the use of CCR in closure, alternate liner demonstrations for unlined units, completion of closure by removal when corrective action is not

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complete, annual closure progress reports, and a modification to the notice of intent to close. These two proposals (Parts A and B) are currently expected to be signed in early fall.

The third proposed rulemaking package, *Federal CCR Permit Program*, will propose new regulations to implement a federal CCR permitting program as authorized under the WIIN Act. The EPA is expecting to propose this new program by the end of 2019. The EPA's current goal is to finalize these proposed packages in 2020.

Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Carolyn Levine in the EPA's Office of Congressional and Intergovernmental Relations at levine.carolyn@epa.gov or at (202) 564-1859.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Wright", written over a horizontal line.

Peter C. Wright
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

NOV - 1 2019

The Honorable Jim Cooper
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Cooper:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps the EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how the EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how the EPA is monitoring compliance and implementation of the CCR rule.

On April 17, 2015, the EPA published a final rule that established comprehensive requirements for the disposal of CCR in surface impoundments and landfills. While some of these regulations were challenged in court¹, the majority went into effect and they are being implemented. These regulations address the risks from coal ash disposal -- releases of contaminants into groundwater, into the air as dust, and the structural failure of coal ash surface impoundments. The rule also contains requirements for identifying and responding to releases of constituents to the environment, including groundwater monitoring and corrective action, and procedures governing the closure of CCR units. Additionally, the rule sets out recordkeeping and reporting requirements and requires each facility to establish and post specific information to a publicly accessible website. These posting requirements created important transparency regarding compliance with, and implementation of, the CCR regulatory requirements.

Under the regulations, CCR surface impoundments found to have exceedances of regulatory levels must undergo assessment of corrective measures to determine the extent of the contamination, what steps are necessary to limit further contamination, and an analysis of the effectiveness of potential corrective measures. Two of the most important website-posting requirements are the groundwater monitoring notifications and the annual groundwater monitoring and corrective action reports. The EPA and our state partners are closely observing facilities' groundwater monitoring data and corrective action postings, tracking how facilities are progressing through the groundwater monitoring process, i.e., from detection monitoring to assessment monitoring to assessment of corrective measures.

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In addition, the EPA has observed that some publicly accessible websites were missing key documents required under the public posting regulations. In response, in May 2019, the EPA mailed compliance assistance letters to every facility covered by the CCR rule (except facilities located in Oklahoma, which has an approved CCR program). These letters requested that facilities verify that their publicly accessible websites contain the information required by the regulations, and, if not, that they would update their websites. Enclosed with each letter was a summary of the actions that facilities must take and document on their websites to comply with the CCR regulations.² Since sending these letters, the EPA has observed many facilities updating their websites to come into compliance. In addition, our headquarters offices are working with the EPA regional offices to determine appropriate strategies to assess compliance with other elements of the CCR rule. Finally, the EPA is coordinating with our state partners on additional compliance assistance and enforcement efforts.

You had several specific questions related to additional CCR rulemakings. The EPA is aggressively working to update the coal ash regulations in response to the D.C. Circuit Court decisions³ and to respond to the Water Infrastructure Improvements for the Nation (WIIN) Act, which, among other matters, provided the EPA with the ability to directly enforce the CCR regulations. This effort included the March 2018 proposal of several provisions designed to address current implementation issues.⁴ Some additional proposed revisions are intended to address other implementation issues the EPA has identified as owners and operators continue to take actions required under the rule. To this end, the EPA is actively developing three proposed rule packages, which are described in more detail below.

The first proposed rule, *Enhancing Public Access to Information and Reconsideration of Beneficial Use Criteria and Piles*, was signed by the EPA Administrator on July 29, 2019, and published in the Federal Register on August 14, 2019. This proposal addresses provisions remanded by the court in the August 2018 USWAG decision, specifically, the beneficial use provision and definition of piles. Additionally, this proposal would improve public access to the postings on the CCR compliance websites and would standardize the formatting of annual groundwater monitoring reports so that these reports present data in a clear and consistent manner. This proposal is currently out for public comment, and the EPA will hold an in-person public hearing on October 2, 2019, as well as a virtual public hearing on October 10, 2019, on this proposal.

The second proposed rulemaking package, *A Holistic Approach to Closure Parts A and B*, addresses the remainder of the issues from the court decisions. Part A addresses the remanded deadline for CCR surface impoundments to initiate closure from the Waterkeeper decision in March 2019. Additionally, proposed amendments in Part A would implement the vacatur of parts of the 2015 rule that define “clay-lined” as a type of liner for a CCR surface impoundment and that allow unlined impoundments to continue to operate unless groundwater releases exceed the groundwater protection standard. In Part B, the EPA seeks comment on how to regulate inactive surface impoundments at inactive power plants, in response to the USWAG decision. Other issues in Part B include the use of CCR in closure, alternate liner demonstrations for unlined units, completion of closure by removal when corrective action is not

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complete, annual closure progress reports, and a modification to the notice of intent to close. These two proposals (Parts A and B) are currently expected to be signed in early fall.

The third proposed rulemaking package, *Federal CCR Permit Program*, will propose new regulations to implement a federal CCR permitting program as authorized under the WIIN Act. The EPA is expecting to propose this new program by the end of 2019. The EPA's current goal is to finalize these proposed packages in 2020.

Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Carolyn Levine in the EPA's Office of Congressional and Intergovernmental Relations at levine.carolyn@epa.gov or at (202) 564-1859.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter C. Wright", written in a cursive style.

Peter C. Wright
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV - 1 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

The Honorable Diana DeGette
U.S. House of Representatives
Washington, D.C. 20515

Dear Congresswoman DeGette:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps the EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how the EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how the EPA is monitoring compliance and implementation of the CCR rule.

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The second proposed rulemaking package, *A Holistic Approach to Closure Parts A and B*, addresses the remainder of the issues from the court decisions. Part A addresses the remanded deadline for CCR surface impoundments to initiate closure from the Waterkeeper decision in March 2019. Additionally, proposed amendments in Part A would implement the vacatur of parts of the 2015 rule that define “clay-lined” as a type of liner for a CCR surface impoundment and that allow unlined impoundments to continue to operate unless groundwater releases exceed the groundwater protection standard. In Part B, the EPA seeks comment on how to regulate inactive surface impoundments at inactive power plants, in response to the USWAG decision. Other issues in Part B include the use of CCR in closure, alternate liner demonstrations for unlined units, completion of closure by removal when corrective action is not

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Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Carolyn Levine in the EPA's Office of Congressional and Intergovernmental Relations at levine.carolyn@epa.gov or at (202) 564-1859.

Sincerely,

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Peter C. Wright
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV - 1 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

Office of the 7th Congressional District of Maryland
2163 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Vernon Simms:

Thank you for your letter of July 31, 2019, to the U.S. Environmental Protection Agency, regarding the steps EPA is taking to protect human health and the environment from coal combustion residuals (CCR). In your letter, you provided specific questions on how EPA is addressing the contamination from CCR disposal units, the timing and substance of future CCR rulemakings, and how EPA is monitoring compliance and implementation of the CCR rule.

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Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Pamela Janifer in EPA's Office of Congressional and Intergovernmental Relations at Janifer.Pamela@epa.gov or (202) 564-6969.

Sincerely,

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Peter C. Wright
Assistant Administrator